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FILED  
TIME 2:01 PM

JUN 15 2011

IN THE SUPERIOR COURT  
MOHAVE COUNTY, STATE OF ARIZONA  
VIRLYNN TINNELL  
CLERK SUPERIOR COURT  
an

Honorable Steven F. Conn  
Division: III Courtroom: A  
Court Reporter: Jim Glover

Virlynn Tinnell, Clerk of Superior Court  
By: Christine Murphy, Deputy Clerk  
Hearing Date: June 15, 2011

STATE OF ARIZONA,  
  
vs.  
  
JOHN CHARLES MCCLUSKEY,  
  
Plaintiff,  
  
Defendant.

CASE NO: CR-2010-00823  
  
JURY TRIAL-DAY TWO  
  
START: 9:31 A.M.

APPEARANCES: Victoria Stazio, Deputy County Attorney; John Pecchia and Jason Steffen, Attorney's for and with the Defendant.

State's exhibit E00007 through E000019 (photographs) are marked for identification.

This is the time set for Jury Trial; the Jury is not present.

The State has marked a redacted pen pack into evidence; the Defense is requesting for additional redaction of the document; the State requests the Court review of the pen pack; the Court will do so at a later time.

The State has a cd of video surveillance which includes the co defendant Welch; the Defense objects to this cd; the State requests the Court review of this cd.

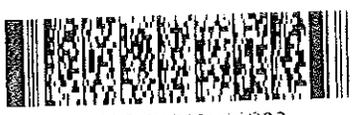
The State presents argument.

The Defense presents argument.

The Court finds that the Defense has already put everyone on notice of the fact that they are going to challenge the validity of that identification so it seems to the Court that this item of evidence would be consistent with the State's theory that one of these two people that got into the truck was in fact the Defendant.

The Court does not see any form of prejudice to the Defendant in allowing this item to come into evidence. Treating this as a Motion to Preclude from the Defense:

IT IS ORDERED denying the Motion.



The Defense makes statements regarding security agitating the Defendant.

The State advises the Court that a razor blade was just recently found in the Defendant's cell.

The Court makes statements regarding balancing the rights of the Defendant with the safety concerns.

The Court recesses at 9:42 a.m.

The Court reconvenes at 9:45 a.m.; all parties heretofore mentioned are present, including the Jury.

The Court reads the charges and goes over preliminary instruction with the Jury.

Ms. Stazio presents opening statements.

Mr. Steffen presents opening statements.

The Court admonishes the Jury and excuses them at 10:45 a.m.

Now, outside the presence of the Jury:

The Court has now reviewed the redacted pen pack that the State has identified into evidence.

The State presents argument.

The Defense presents argument.

The Court's ruling would be that the yellow portion that has been highlighted by the Defense would be redacted from the exhibit. If the parties cannot reach a stipulation, the Court will enter the appropriate order.

The Court stands in recess at 10:54 a.m.

The Court reconvenes at 11:04 a.m.; all parties heretofore mentioned are present, including the Jury.

The State calls witness Corrections Officer Sherrice Honse, who is duly sworn, now testifies to the Court.

The record shall reflect that the witness has identified the Defendant.

The witness is excused.

The State calls witness George Gould, who is duly sworn, now testifies to the Court.

The State moves for admission of exhibits E000007 through E000017 into evidence; the Defense does not oppose.

**IT IS ORDERED** admitting into evidence State's exhibits E000007, E000008, E000009, E000010, E000011, E000012, E000013, E000014, E000015, E000016 and E000017.

State's exhibit E0000020, E0000020 and E0000022 (3 orange t-shirts) are marked for identification.

The State moves for admission of exhibit E0000020 into evidence; the Defense does not oppose.

**IT IS ORDERED** admitting exhibit E0000020 into evidence.

The State moves for admission of exhibit E0000021 into evidence; the Defense does not oppose.

**IT IS ORDERED** admitting exhibit E0000021 into evidence.

The State moves for admission of exhibit E0000022 into evidence; the Defense does not oppose.

**IT IS ORDERED** admitting exhibit E0000022 into evidence.

The Jury is admonished and the Court stands in recesses at 11:56 a.m.

The Court reconvenes at 1:17 p.m.; all parties heretofore mentioned are present, including the Jury.

The witness resumes the stand and continues testifying to the Court and is excused.

The State calls witness Detective Brandon Lawrence, who is duly sworn, now testifies to the Court and is excused.

The State calls witness Deputy Christopher Lane, who is duly sworn, now testifies to the Court.

State's exhibits E0000023 and E0000024 (video surveillance and cd) are marked for identification.

The witness is excused.

The State calls witness Detective Jason Elsbury, who is duly sworn, now testifies to the Court.

The State moves for the admission of exhibit E0000023 and E0000024 into evidence; the Defense objects; the Court will sustain the objection for now.

The witness is excused.

The Jury is admonished and excused at 1:52 p.m.

Now, outside the presence of the Jury:

Discussion ensues regarding thoughts as to jury instructions; lesser included offenses and special findings as to the dangerousness of the offenses.

The Court stands in recesses at 2:01 p.m.

**cc:**

MOHAVE COUNTY ATTORNEY\*

Victoria Stazio

MOHAVE COUNTY PUBLIC DEFENDER\*  
John Pecchia and Jason Steffen

THERESA M. DUNCAN\*  
Federal Counsel  
Informational Copy

MOHAVE COUNTY JAIL\*

HONORABLE STEVEN F. CONN\*  
Division III